

**Number 99, December 2003:
Does USERRA Apply to Partnerships?**

By CAPT Samuel F. Wright, JAGC, USNR*

Q: I am a Commander in the Naval Reserve Medical Corps and a physician in private practice, with two partners. I was called to active duty for eight months, which annoyed my partners. Upon my return, my partners have demanded, as a condition of my reinstatement to the partnership, that I quit the Naval Reserve. They have also said that I must take no vacation for the next decade, to make up for all the work they covered for me while I was on active duty. I filed a complaint with the Veterans' Employment and Training Service, U.S. Department of Labor, but they told me that the Uniformed Services Employment and Reemployment Rights Act (USERRA) does not apply to me. What gives?

A: USERRA applies to the relationship between an employer and employees. It does not apply to the relationship among partners in a partnership. You have no protection under this law.

I have heard from several lawyers, as well as physicians and dentists, with this issue. USERRA certainly applies to the relationship between a law firm and its junior attorneys, who are called "associates." I have heard from one ROA member who is referred to as a "non-equity partner" at his law firm. It seems to me that the phrase "non-equity partner" is an oxymoron. If you do not have an ownership interest in the firm, you are not a partner, just a better-paid associate. I am prepared to argue that this "non-equity partner" has re-employment rights at the law firm when he is released from active duty.

*Military title used for purposes of identification only. The views expressed in these articles are the personal views of the author and are not necessarily the views of the Department of the Navy, the Department of Defense, the Department of Defense or the U.S. government.